

REMARKS

Claims 1-33 are pending. Claims 1-33 are rejected.

Although Applicants respectfully submit that claims 1-33 recite patentable subject matter in view of the cited art, Applicants have amended the pending independent claims as set forth in claims 1, 12, 15 and 19 to expedite prosecution and/or to further clarify the subject matter therein.

For example, independent claim 1, as amended, recites “wherein one of the first communication device and the second communication device selects a personal media delivery cost that is based on at least delivery duration, media quality and queuing.” None of the cited documents, as asserted, teaches at least these elements as set forth in claim 1.

Independent claims 12, 15 and 19, as amended, recite similar elements.

In view of at least the amendments, the Office Action no longer presents a *prima facie* case of obviousness with respect to the combined references as asserted since the Office Action does not yet contemplate at least the amendments herein.

It is believed that claims 1-33 are in condition for allowance.

Applicants do not necessarily agree with the raise rejections or objections, the Examiner’s characterization of the documents made of record, either alone or in combination, or the Examiner’s characterization of recited claim elements. Furthermore, Applicants respectfully reserve the right to argue the raise rejections or objections, the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

Applicants also reserve the right to pursue, without prejudice, subject matter that has been withdrawn, amended and/or cancelled in a continuing and/or related application.

With respect to the present application, Applicants hereby rescind any disclaimer of claim scope made in the parent application or any predecessor or related application. The

U.S. Application No. 10/675,090, filed September 30, 2003

Attorney Docket No. 14445US02

Response dated October 5, 2011

In Response to Office Action of June 9, 2011

Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: October 5, 2011

Respectfully submitted,

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